

DCUSA DCP 211 Consultation responses – collated comments

| Company | Confidential/ Anonymous | 1. Do you agree with the intent of DCP 211? | Working Group Comments |
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| GDF SUEZ Marketing Limited | Non-confidential | Yes, with some reservations. | Noted |
| GTC | Non-confidential | Yes | Noted |
| npower | Non-confidential | Yes | Noted |
| Reckon LLP | Nothing confidential | Yes. | Noted |
| Southern Electric Power Distribution plc and Scottish Hydro Electric Power | Non-confidential | Yes. | Noted |

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| Distribu tion plc | | | |
| SSE Energy Supply | Non- confident ial | Yes | Noted |
| UK Power Network s | Non- confident ial | We agree with the intent to make all information available going forward, however we do not agree with the making available historic information. 57.2 and 57.3 should be referred to alongside 57.1. | There group noted that there were seven "yes" in principle and one "yes but not retrospective" |

| Compa ny | Confide ntial/ Anonym ous | 2. Are you supportive of the principles of DCP 211? | Working Group Comments |
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| GDF SUEZ Marketi ng Limited | Non- confident ial | Yes. We think DCUSA should be aligning itself with the level of public access offered by comparable organisations managing industry and code change such as Elexon and the Joint Office of Gas Transporters. However, due consideration should be given to the fact that DCUSA operates a system of voting on changes where all parties can participate, whereas some other similar bodies have panel votes only. In addition, parties' requests to make their responses to consultations confidential should be respected. | <p>The group noted the respondent's comments. It was observed that should the decision be made to apply the change retrospectively then Parties may not have realised at the point of submitting information that in the future that it would be made more transparent. This could be undesirable for those who have made statements that they did not expect to be published to a wider audience. It could also restrict dialogue and limit discussions going forward if people think that their comments will be published for others to read.</p> <p>The proposer highlighted that the competition law dos and don'ts that the Working Group have all agreed to state that Working Group members should not:</p> <p><i>"Share information which is of a type not easily available amongst parties and/or is likely to influence competitive behaviour. As a test, consider whether you</i></p> |

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| | | | <p><i>would be prepared to publish the information in a newspaper."</i></p> <p>Another Working Group member highlighted that Clause 57 of the DCUSA states that in relation to information provided to any working group:</p> <p><i>"where the Party wishes such information to remain confidential, it shall clearly mark such information as such. The Panel, its Working Groups and the Secretariat shall ensure that all information so marked is kept secret and confidential, provided that such information shall still be made available to the Authority on the understanding that the Authority shall keep such information confidential"</i></p> <p>The majority of Working Group members noted their concerns that applying the CP retrospectively would expose confidential information that working group members never intended to be widely published</p> |
| GTC | Non-confidential | Yes | Noted |
| npower | Non-confidential | Yes | Noted |
| Reckon LLP | Nothing confidential | Yes. | Noted |
| Southern | Non-confidential | Yes. | Noted |

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| Electric Power Distribution plc and Scottish Hydro Electric Power Distribution plc | ial | | |
| SSE Energy Supply | Non-confidential | Yes | Noted |
| UK Power Networks | Non-confidential | We are supportive of the principles of greater transparency in DCUSA to assist potential new entrants into the industry and new customers; however we have some concerns over the control of publication of confidential information. | Noted |

| Company | Confidential/Anonymous | 3. Do you have any comments on the proposed legal text? Please provide supporting comments. | Working Group Comments |
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| GDF SUEZ Marketing Limited | Non-confidential | The legal text should allow for the possibility that parties may wish to declare certain documents confidential (eg consultation responses that may be commercially sensitive). There should also be carve outs for sensitive items such as voting papers and change declarations which reveal how particular parties voted on changes. | Noted |
| GTC | Non- | No | Noted |

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| | confidential | | |
| npower | Non-confidential | No | Noted |
| Reckon LLP | Nothing confidential | No comments. | Noted |
| Southern Electric Power Distribution plc and Scottish Hydro Electric Power Distribution plc | Non-confidential | <p>We do not agree with inclusion of the date of 31 May 2014 and believe that this Change should not result in potential publication or availability of any documents produced prior to the effective date in DCUSA, if approved. In our view, there is no compelling rationale for use of this date and new provisions normally have effect from the relevant date of the amended DCUSA version.</p> <p>For the avoidance of doubt, we believe that paragraph 3(d) of Schedule 14 should also reference as excluded any item which is covered by Clause 57.3.1 in addition to Clause 57.1. We would not wish Parties to feel inhibited in providing information, due to concerns about treatment of information provided as confidential.</p> <p>Also for the avoidance of doubt, we believe that paragraph 3A should reference matters covered by Clause 57.1, due to the addition of the word 'any' before minutes, papers, etc. as the Panel or Board may have to keep certain items confidential.</p> | Noted |
| SSE Energy Supply | Non-confidential | No | Noted |

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| UK Power Networks | Non-confidential | We do not believe there is any need to confuse the obligations created under clauses 5.3.9 and 5.3.10. The CP can be achieved by keeping changes to within Schedule 14. Schedule 14 is cross referenced by 5.3.9 and so there is no need to amend 5.3.10. | The group discussed this suggestion and decided not apply it. |
| Company | Confidential/Anonymous | 4a. In respect of publication on the Public Pages of the DCUSA website, the proposal would not apply to contact details or to documents produced before 31 May 2014. Are you supportive of this approach? Please provide supporting comments. | Working Group Comments |
| GDF SUEZ Marketing Limited | Non-confidential | Agree, as these documents will have been written under an assumption that they would not be publicly available. | It was observed that a minority of respondents expressed concerns about retrospection in relation to the CP. Three are saying "no" to retrospectively against the seven that have voted. |
| GTC | Non-confidential | We agree that contact details should not be made available. Communication in respect of change proposals should be through DCUSA. We do not think that it is appropriate that individual members should have their details published. We do not understand why documents produced before 2014 should not be available on the public pages. We would like to understand why the working group believes these should not be made available on the public pages. | Noted |
| npower | Non-confidential | Yes. We believe there would be no benefit in documents being made available that were produced prior to 31 May 2014 (or a later date) as there would be a requirement to check and validate all documents to ensure there was no confidential details put into the | The Group noted that it would be a large administrative task to revisit all documents to make sure that nobody has submitted a confidentiality statement in relation to each item. The proposer explained that there would not be a requirement to publish all documents but only |

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| | | public area. | <p>those where there is a request for it to be published. It was noted that in this case there should also be a retrospective right for those who submitted the information to say that they wish for it to be treated as confidential.</p> <p>It was queried what the rationale was for the retrospectively. In response, the proposer explained that in order to challenge decisions that have been made it needs to be possible to access the information behind those decisions.</p> <p>It was cautioned that the CP may be more likely to be accepted without the retrospective aspect. The group noted that the CP is a Part 1 matter and thus the Authority will decide whether or not the CP is implemented.</p> |
| Reckon LLP | Nothing confidential | <p>It is right not to publish contact details.</p> <p>It is unfortunate that documents produced before 31 May 2014 would not be published. However, this is an acceptable solution if requiring the Secretariat to go through many years of historical documents in order to identify any confidential information would be an excessive burden.</p> | Noted |
| Southern Electric Power Distribution plc and Scottish | Non-confidential | <p>We agree that Party contact details should not be provided on the Public Pages.</p> <p>Please refer to earlier comments in relation to the 'documents date'.</p> | Noted |

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| Hydro Electric Power Distribution plc | | | |
| SSE Energy Supply | Non-confidential | Yes | Noted |
| UK Power Networks | Non-confidential | This would be sensible going forward. However, instead of using 31 May 2014, the date should be square bracketed to reference the date of implementation. | Noted |

| Company | Confidential/Anonymous | 4b. Documents not designated as confidential by the Panel in accordance with clause 57.1 would be available to the public on request, even if produced before 31 May 2014. Are you supportive of this approach? Please provide supporting comments. | Working Group Comments |
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| GDF SUEZ Marketing Limited | Non-confidential | No, as contributors to and publishers of these document will not have drafted them on the assumption that they would be made public. Perhaps parties identified in documents could be asked for permission to make a pre-May 2015 document public on request, on the understanding that such permission could be withheld. | <p>The group noted their concerns around the volume of information that could potentially be asked for and the administrative burden of checking that this information is not confidential.</p> <p>The proposer of the CP highlighted that anyone can join the DCUSA website with a DCUSA Party sponsoring them.</p> <p>ElectraLink took an action to circulate the Website Terms and Conditions. Also, to provide details on the access levels.</p> |

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| | | | It was observed that it would be difficult to check the confidentiality of historic documents by checking those named and referenced in them are happy for them to be openly published, as these individuals may have moved to different roles and may no longer be contactable. |
| GTC | Non-confidential | We are supportive that such documents should be made available. However. We refer to our response to 4A | Noted |
| npower | Non-confidential | No. We believe that a consistent start date (31 May 2014 or later) for document availability is preferable. | Noted |
| Reckon LLP | Nothing confidential | Yes. Limiting the need for the Secretariat to check confidentiality for old documents to cases where there is an explicit request is a reasonable approach. | Noted |
| Southern Electric Power Distribution plc and Scottish Hydro Electric Power Distribution plc | Non-confidential | <p>No – we believe that only documents produced on or after the effective date of the Change, if approved, should be available. It is possible that certain information may have been expressed differently, or even marked as confidential, if the submitting Party had been aware at the time of writing that the information may become publicly accessible at a later date. This is therefore an unreasonable provision and the legal text requires to be amended accordingly.</p> <p>We also believe that it needs to be clear that any documents covered by Clause 57.3.1, regardless of date, would not be available to the public on request, for the avoidance of doubt.</p> | Noted |
| SSE Energy Supply | Non-confidential | Yes | Noted |

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| UK Power Networks | Non-confidential | No. It is not clear that this is achieved by the Legal Text. The date for making the documentation available should be from the implementation date rather than being backdated. Prior to 31 May, or indeed implementation of this change, such information would have been provided on the understanding it was not published widely. Retrospective legal changes should not be made. | Noted |
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| Company | Confidential/Anonymous | 5. Do you believe having this access in the public domain causes any commercial issues or may have unintended consequences? | Working Group Comments |
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| GDF SUEZ Marketing Limited | Non-confidential | Allowing voting records to be made public could have unintended consequences as it could reveal commercial strategies and issues to competitors, and send signals to potential customers that could easily be misinterpreted. Most other codes do not use a party, as opposed to panel voting system in the way that DCUSA does and special attention should be given to this area unless it is already agreed to be excluded from this change. | It was observed that competitors of GDF Suez will have access to the voting records as they are DCUSA Parties and thus have website access. An action was taken to feed this back to the respondent. |
| GTC | Non-confidential | We are not aware of any. | Noted |
| npower | Non-confidential | It is difficult to tell if that would be the case. However, we would expect the Panel to sanction those documents and details that would be made available. | Noted |
| Reckon LLP | Nothing confidential | No adverse issues or unintended consequences. | Noted |

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| | ial | | |
| Southern Electric Power Distribution plc and Scottish Hydro Electric Power Distribution plc | Non-confidential | No. | Noted |
| SSE Energy Supply | Non-confidential | No | Noted |
| UK Power Networks | Non-confidential | <p>Any information submitted as Confidential should be excluded from publication on the website or being made available.</p> <p>All information submitted in the past has been submitted in the knowledge it is only available for use in the development of DCUSA. This may have included information which is not intended for public access, such as DCP 133 where information was provided by Working Group members on the specific understanding it was only for use in developing that change.</p> <p>There would be no commercial issues or unintended consequences if this change proposal is only applied going forward.</p> | Noted |

| Company | Confidential/ Anonymous | 6. The Working Group considers that DCUSA General Objective 2 ¹ is better facilitated by DCP 211; do you agree with this opinion? Please provide supporting comments on this and any other DCUSA General Objective you feel is impacted by DCP 211. | Working Group Comments |
|---|----------------------------|--|------------------------|
| GDF SUEZ Marketing Limited | Non-confidential | Agree, subject to comments made here. | Noted |
| GTC | Non-confidential | We agree that objective 2 is better facilitated for the reasons presented by the working group | Noted |
| npower | Non-confidential | We believe that General Objective 4 would be better facilitated. | Noted |
| Reckon LLP | Nothing confidential | Yes. | Noted |
| Southern Electric Power Distribution plc and Scottish | Non-confidential | We agree that this Change may better facilitate General Objective 2. | Noted |

¹ The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity

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| Hydro Electric Power Distribution plc | | | |
| SSE Energy Supply | Non-confidential | Yes | Noted |
| UK Power Networks | Non-confidential | If the changes we have suggested are incorporated Objective 2 would be bettered. | Noted The group observed that the majority agree that objective two is better facilitated and one feels that objective four is better facilitated. The group discussed the objectives and agreed that objective two was better facilitated. |

| Company | Confidential/Anonymous | 7. Do you agree with the implementation date of DCP 211? | Working Group Comments |
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| GDF SUEZ Marketing Limited | Non-confidential | Yes, provided the safeguards noted above have been put in place by the implementation date. | Noted |
| GTC | Non-confidential | Agreed | Noted |
| npower | Non-confidential | Yes, the implementation date would seem reasonable. | Noted |

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| | ial | | |
| Reckon LLP | Nothing confidential | Yes. | Noted |
| Southern Electric Power Distribution plc and Scottish Hydro Electric Power Distribution plc | Non-confidential | Yes. | Noted |
| SSE Energy Supply | Non-confidential | Yes | Noted |
| UK Power Networks | Non-confidential | Yes | Noted |

| Company | Confidential/Anonymous | 8. Are there any alternative solutions or matters that should be considered by the Working Group? | Working Group Comments |
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| GDF | Non- | No. | Noted |

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| SUEZ Marketing Limited | confidential | | |
| GTC | Non-confidential | None that we are aware of | Noted |
| npower | Non-confidential | No. | Noted |
| Reckon LLP | Nothing confidential | No. | Noted |
| Southern Electric Power Distribution plc and Scottish Hydro Electric Power Distribution plc | Non-confidential | Not that we are aware of. | Noted |
| SSE Energy Supply | Non-confidential | No | Noted |
| UK | Non- | Response forms currently include a provision for Parties | Noted |

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| Power Networks | confidential | to state whether they are Confidential, Non-confidential, Anonymous or Other. The Legal Text needs to cater for these and other confidential submissions not being published. | |
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